

Charter Commission Minutes - September 18, 2017

Police Station Community Room

Attending: Irv Rhodes, Nick Grabbe, Meg Gage, Diana Stein, Andy, Fricke, Julia Rueschemeyer, Mandi Jo Hanneke, Gerry Weiss
Collins Center: Tanya Stepasiuk

Agenda:

1. Call to order, approve agenda, approve minutes
2. (at 5:35) Paul Bockelman on experience with 2-year terms
3. Public comment
4. Continue discussing edits for final charter
5. (at 6:30) Stephen Schreiber on planning and zoning components
6. Other planning: future meetings, final report, etc.
7. Topics not reasonably anticipated by the Chair 48 hours prior to the meeting
8. Adjourn

Paul Bockelman, Town Manager (TMgr) related his experience with 2-year terms: He was on the School Committee in Somerville for 11 years. 7 ward members were elected every 2 years. Typically, School Committee candidates run out of parent involvement, not experienced politicians. 2 year terms attracted people new to electoral system – not that long a commitment. 1 year to get up to speed is realistic – not untenable. Never saw a complete or dramatic turnover in Somerville or in any community. Would take some determined organizing – even turning over 2 seats is quite an achievement. Exercise of collecting signatures itself puts candidates on the ground and talking to voters – a valuable exercise. Electoral process accomplishes engagement. Open seats generally competitive and people did challenge incumbents. Probably the 2-year term didn't attract people who wouldn't otherwise run. Important to be on the ballot at the same time as the Town Council – really important to give significance to the election. Also prevents people from holding one seat while running for another.

Hanneke – This was a School Committee made up of representatives from specific districts (Somerville) vs at-large (Amherst proposal)

Bockelman – Representatives came in protective of "their school" as opposed to entire town –there was a lot of pressure to represent a neighborhood.

Gage – We don't have a school in every district, so less of an issue for us.

Grabbe – At large makes most sense to you?

Bockelman – Yes – that's how I'd do it – to not have parochial sense of ownership of certain schools by certain committee members.

Grabbe – Did incumbents often lose?

Bockelman – No? He couldn't remember any.

Rueschemeyer – Were there more competitive elections in at-large or districts?

Bockelman – At large generally draws more candidates – ward seats get occupied – vacant seats are where energy happens,

Weiss – Do you favor term limits?

Bockelman – Should be voters' prerogative – not in favor of them.

Weiss – Requiring a few years off is another idea.

Stepasiuk - That's the way most of them work.

Rueschemeyer – Feedback on elected vs appointed planning board?

Bockelman – No comment. Somerville is appointed by the mayor. Good in issues of land use to have both special skills and general interest-- a good balance. Best boards represent the whole town.

Gage – Are appointed boards more likely to be selected for mutual agreement – with dissenters dismissed as problematic?

Bockelman – If the committee is representative of whole community, that reduces perception of being in someone's pocket – election is one way, but so is conscientious appointment.

Grabbe – Any experience with partly elected planning boards?

Bockelman – No – Manchester By The Sea was entirely elected – the development issue of the day generated interest in running – a lot of single issue candidates.

Churchill – Thoughts on the costs of the Charter proposal versus current Town government?

Bockelman – The department heads discussed challenges of answering a question like this – no impact on police, fire type costs – a dollar figure related to working with Town Meeting (TMtg) and Select Board is very tough – Both forms will have meeting prep costs.

Gage – What about 3 out of 7 elected to planning board?

Bockelman –He worried about creating 2 classes of board members –He thought elected might feel greater status because elected by voters – He would go all one way or the other (appointed or elected),

Rhodes –Thoughts on comparing 2 systems in terms of time rather than dollars?

Bockelman – Actual TMtg time spent we know, but harder with Select Board – Either way, preparation time is harder to quantify – could try to pull something together.

Grabbe – Estimates received from Bockelman earlier were turned into a tentative figure by Grabbe, but feels like a soft number given uncertainties – like prep time for Council, like possible costs of adding TMtg Advisory Committee. Either cost will be somewhere around .0006 of the budget.

Churchill – Preliminary elections feedback? Costs versus benefits?

Bockelman – They do cost money – especially at large, though if it's just in a ward, then less so. Electing officials with over 50% is really nice – but there's no perfect solution. Have seen 3rd candidates thrown in a race just to test strength of challenger to incumbent.

Churchill – Early voting in preliminaries?

Bockelman/Stepasiuk – Only applies to state elections, so not necessary here.

Discussion of 9-14-17 Copy-Edited Draft

2-8 Language to clarify Town Council powers to investigate (excluding School Dept. and Library Dept.) and request information from all.

Rueschemeyer – Why exclude these two?

Hanneke – Because they have elected investigatory bodies already.

Churchill/Gage – Supervisory relationship is already connected to voters through School Committee/Library Trustees).

Rueschemeyer – Disagree with that reasoning.

Gage – Have heard enthusiasm for Council's access to non-voting role on SC/LB.

Hanneke – Why? There's nothing they could actually do since it's not their jurisdiction.

Rueschemeyer – They couldn't directly impact police either.

Hanneke – But do have power there through TMgr.

Churchill – is there appetite for change?

Decision: No

Hanneke – Can subcommittees do same kind of information requesting?

Stepasiuk – We don't want this to be a way to harass town agencies.

Churchill – Let's leave investigating as a function of entire Council; they can designate a subcommittee if they want, but the permission needs to come from the full council, not the subcommittee

2-10 bylaws and measures clarified by distinction

6:30 Comments from Steve Schrieber on Planning Board (PB) proposals (and written comments from Christine Brestrup): size of PB – current members likely split. currently 9, proposed at 7. 5,7,9 are all common in Mass. He favors 7 – When they had 7 serving, everyone was involved, picked up their game. Counterargument – giving up opportunity for more voices/diversity. 9 - person board could have perverse effect of giving members permission to not challenge or speak up. Commission could just punt this back to bylaw.

Size of ZBA – 3 seems too small. Easier to convince 3 people of something. Likes 5 since possibility of non-unanimous outcomes.

Elected/Appointed PB – Currently have an excellent PB with diverse opinions and common fascination with wonky stuff – very different people would likely put selves forward for election. Asking Town Council to do appointing is a little mission creep. PB and Zoning Board of Appeals (ZBA) are more of executive function. TMgr good at forming search committee to screen and interview – maybe could

adopt something like that to make recommendations to appointing authority – Many universities approach hiring this way – a collaborative process. Ultimately, favor TMgr appointment for both.

Stein – ZBA sent a letter saying we should stay with 3 because hard to fill seats with skilled volunteers.

Schreiber – A legitimate concern, but certainly there are people really interested in issues.

Stepasiuk- State law will still require ZBA alternates at either size.

Rueschemeyer – What about a partially elected PB?

Schreiber – Might be a good idea – not a terribly strong feeling either way. Right now, the TMgr needs to curate specialties and backgrounds – would be harder if general public is determinative.

Weiss –Will 7 mean less work gets done?

Schreiber – We've been tweaking own process through bylaw proposals – some efficiencies there.

Churchill – Bockelman concerned about 2 classes of members—elected and appointed.

Schreiber – Wouldn't worry about that. Judges aren't elected and that works. But places with elected boards don't see much change in who's on board (Hadley, South Hadley).

Rueschemeyer – Counterintuitively, see more change in appointed boards.

Gage – But 3 out of 9 wouldn't be that much.

Hanneke – People could stay in PB by flipping from elected to appointed seats and back.

Rhodes – Teaching the public about qualifications for PB would be way too much – not a position that voters are prepped to fill. Have been opposed to that idea. Likely to just see same people over and over running.

Rueschemeyer – Doesn't School Committee face similar challenge of expertise?

Rhodes – No, completely different.

Gage – Disagree – voters do understand planning and need a chance to address this sore spot. School Committee faces extraordinarily complicated issues and that goes fine.

Schreiber – Both are right – seems like challenges are similar and I'm quasi-intrigued by election idea.

Rhodes – Please keep proposal as it is – Town Council appointment still puts electorate in the mix enough.

Schreiber – School Committee is quasi autonomous, but no analogy for PB.

Hanneke – Electing some PB members to get public input misses the boat – mostly special permits and not PB purview – and it's the Town Council that decides on planning bylaw, not the PB – would be pretty frustrating election to win.

Rueschemeyer – Elected ZBA then?

Stein – Election would address perception of alienation from process. In practice, PB appointees demonstrate interest before they're even considered. Do people move from PB to ZBA?

Schreiber – No, but sometimes the other way around.

Weiss – Does PB not grant special permits? Did Hanneke get it right? Does PB grant variances and special permits?

Schreiber – Site plan review is with PB, ZBA grants special permits.

Weiss – Downtown special permits?

Schreiber – By PB making Auxiliary Special Permits ...primary request for site plan review couldn't be rejected, but they didn't have to receive every special permit they got by right (height, setback).

Churchill – Planning Director likes 9 person PB, talked about 5 person ZBA benefits. Town Council appointment probably better than TMgr – more diversity. Election of PB seems too politicizing.

Stein – Feedback sessions tell us that PB appointment by the Council seems too much concentration of power since they also approve bylaws.

Schreiber – 13 people on the field makes that seem like an unlikely outcome.

Rueschemeyer – Not really more closed than a TMgr loop – TMgr comes from Town Council
Rueschemeyer – Would questions like height variance become a political issue for candidates?

Schreiber – Sure, it could. it's a political world. Both elected and appointed bodies will act in good faith.

Churchill – We're asking Town Council to approve and potentially amend the Master Plan – Good idea?

Schreiber – Yes – since people have complained about Master Plan never getting to Town Meeting.

Gage – Public concern isn't just about buildings, it's about a vision for town – impression now that it's technical and arcane and out of reach and alienating is a kind of damage we're living with.

Discussion of PB and ZBA provisions – change size or appointment provisions?
Both provisions are in Transitions, so won't need a new Charter to change.

Agreement on ZBA at 5 – Benefits of non-unanimous votes and reducing pressure to conform outweigh concerns about finding enough people.

Planning Board at 7 – Generally agreed

Stein - Proposed election at large of 2 out of 7.

Gage – Would rather have 3

Grabbe – A tough one – all appointed likely to be more knowledgeable. Since Town Council is doing appointing, an element of elected officials is already in there. Sympathy with Gage's concerns that voters feel left out on planning – don't foresee any enormous problem with hybrid.

Hanneke – Hadley/South Hadley having had the same boards for years is a big concern. Danger of these seats lost in shuffle of entire ballot. Also, concerned about 2-tier PB qualifications.

Rhodes – Clearly against elected PB – gain nothing of value – Diversity of views and independence unlikely to come from elections. – Already have 13 elected officials taking lead role – There's your diversity in the process and probably far greater diversity than campaigning for PB,

Stein – Don't be afraid of seats getting locked up – doesn't happen so much in reality.

Gage – Let's reflect our confidence in the voters in this provision – 2 tier issue might make one group obnoxious, but votes are all the same value. – There's energy around this and there will be healthy competitive process.

Stein – This would refute the argument that circle is closed.

Rueschemeyer – See argument on both sides. – Unhealthy politicization is a legitimate concern, but also a possible venue for more public engagement with planning issues in an election.

Weiss – Also split – current application process is pretty confidential, can't tell if applications are waiting for approval.

Hanneke – Alissa Brewer points out that Town Council elections are a place where planning should be part of campaigns. Also, we have a vacancies provision that could make applications part of public record.

Weiss – PB has a lot of influence – not just handing things to Town Council – had power to change meaning of exclusionary zoning bylaw – don't know that voting for members will fix anything.

Fricke – More comfortable with putting diversity of opinion challenge on the Town Council's plate – They're elected and campaign on it - At large elections for a couple seats probably not put outsiders on the PB.

Rhodes – Elected seats will become pro/anti-development fights – We want wonky analysis, not political visioning.

Gage – Expertise around planning is an overstated concern – We could name names of outsiders currently excluded by appointment process. – We can't stand for diverse voices and not embrace role for voters – Can't see the harm and can see a lot of good to come of it.

Churchill – Could go either way – Having a Town Council will be different – Planning will be part of those campaigns – Candidates will be asked about their positions and need to respond – Not a form of public input that we have right now – Potential harm is a less functional PB which won't attract best people to participate – Seems that Town Council appointment gives us public exposure without potentially messing up PB.

Stein – PB campaigns would have a much more focused discussion on planning – leaving it to Town Council elections risks getting planning lost or unfocused.

Stein – Made a motion: to elect 2 of 7 member PB. Elected PB members would be on 2-year term versus 5 appointed to staggered 3 year terms – so definitely preserving institutional memory.

In Favor: Gage, Stein

Opposed: Rhodes, Grabbe, Churchill, Fricke, Hanneke

Abstain: Rueschemeyer, Weiss

Commission agreed to postpone approval of past minutes until Monday September 25, 2017.

Article 3:

3.2(U): Our Charter stated: Communicate regularly with the public on behalf of the Town; we agreed to detail what would be communicated, i.e., policies, proposals etc.

Article 4

Hanneke will work on having 4-3 (C) and 4-4(C) mirror first sentence of 4-2(C).

Article 5

5.2 Budget Coordinating Group: discussion re: whether we should be more specific about who is on this group. States: “The Budget Coordinating Group shall consist of the Town Manager and representatives of the Town Council, representatives of the elementary and regional schools, representatives of the Library, and any other persons the Town Council and Town Manager deem necessary.”

Fricke: Let them decide who’s on the group.

Hanneke: Who determines who the representatives from the School Committee are? She suggests we add language stating that the School Committees designates their own representatives, Library trustees would designate their own representatives.

Stein: What about representatives of the Town Council—Who would those people be?

Fricke: Let’s let Town Council decide how this will be done.

Agreed to leave as is re: Town Council

5.7-D: Re: 3rd Forum re: Capital

Hanneke: Maybe it should be called a “meeting” instead of a “public forum.”

Rueschemeyer: Leave as is given that it has substantial public comment with public forum.

Agreed to leave as is.

5.7-E-Adoption of Capital Program

c: Do we want to keep the June 1 date or June 30?

Stein: June 30 would be too late.

Agreed to leave June 1.

6.1(B) We agreed to keep a public forum on a reorganization by Town Manager.

8.6(G) Can the Council put a non-binding question on a special election ballot? Marilyn Contreras says this violates the law so we agree to remove the non-binding question to put on a special election ballot.

9.12(E):

Churchill: replace “qualifications” with person’s interest and experiences. All agreed.
Should the application for someone applying for a vacancy be public record?

Hanneke: In case this makes it public, do we want to be clear about this?

Weiss: In his previous example, he thinks it would be good to know who has applied.

Fricke: No gag rule.

We’ll leave as is, with it being somewhat vague as to whether such applications will be public.

10.7 (E)

Hanneke: Wants to make is clear that we are not having Council elections in 2019. Maybe put in that the next regular election should be in the year 2021.

Rueschemeyer: We should move election years to even years to get higher voter turnout. Otherwise we are disenfranchising voters.

Hanneke: We can’t send it to AG at this point to see if it would be legal.

Churchill, Stein: We’ll get fewer educated voters.

Agreed to leave it as is, with elections in odd years

Number of Districts:

Gage: Got a suggestion that we have ten districts instead of 5. Problem is that both people in our Districts could come from the same precinct.

Hanneke: We were afraid that the smaller the district, the more insular those people would be. We wanted our district councilor to need a decent amount of support. Two would allow for differing opinions. The view from the Councilor might be I’m representing my small precinct rather than the district. The precincts are voting locations and not necessarily neighborhoods.

Gage: This proposal came from someone else.

Grabbe: We don’t want to deter candidates...and as Gerry said previously, with two councilors, there might be more candidates.

Gage: She’ll report back to the person who suggested this.

Everyone seemed to agree that we don’t want to change to increase from 5 districts to 10 districts.

Section 10(10):

We agree to keep this section as is.

We finished Marilyn Contreras’ comments.

Churchill: Let’s discuss any other substantive changes, then Hanneke and Churchill will work together to make non-substantive changes which they will present at the next meeting.

Hanneke: What do we do about Commissioners for Water and Sewer?

Agreed by most: Town Councilors will be commissioners for water and sewer and keepers of the public way.

Hanneke: Let’s make it 2.14

Stepasiuk : I'll put it in 2.14.

2.6(iii): Hanneke: Alisa Brewer recommended that there are laws re: what is an emergency meeting.
Hanneke: Maybe we should leave out this section.

Fricke: Good for clarity to leave it in.
Agreed to leave it in.

Hanneke: re 3.3(C), Alisa doesn't like that we're not following exact Town bylaw but she did recommend to change "disability" to "physical ability." All agree.

Hanneke would like to not use the word "gender" and use the word "sex". If you are going to make a list you should not exclude biological underpinnings—this is defined by "sex," not gender.

Fricke: We don't need the term sex, because it's covered by gender identity.

Churchill: Motion to remove gender and to keep rest same. 6 in favor (AC, MG, NG IR, TF, DS); MH, JR, GW voted against (they wanted to keep the word "gender" in). "gender" will be removed.

6.2 Make same change to change disability to physical ability and remove gender.
Hanneke: we'll change it to mirror our other list in 3.3(C).

Hanneke: Question re: 7.75 to TS: Does this section prevent us from adopting ranked choice voting?

Stepasiuk: No.

8.4 Voter Veto procedures:

Hanneke: The timing seems odd in that once it's submitted to clerk of council, then it's submitted to town clerk as to whether the correct number of people have actually signed the petition. So, the council has to consider it immediately, which is before the signatures have been reviewed.

Stepasiuk: You need to give them to the Town clerk to certify, but the Council in the meantime can continue to vote, so the provision is fine.

Hanneke: Can we take out "immediately" so that it is considered at next regular meeting? Agreed to take out "immediately and replace with "at the next regular meeting."

8.5(A) Hanneke: We exempt proceedings re: Town Council, School Committee and Library Trustees...what about Housing Authority and Will Smith Elector?

Stepasiuk: How about any elected body instead of detailing Town Council, School Committee etc. All agreed.

10.6(A) Hanneke: Ask Marilyn C. whether we can delete the words "Chapter 268 of the Acts of 1987" as it doesn't seem to apply. Stepasiuk will check.

10.7 (C): Hanneke: We need to re-word this entire paragraph. If we have an appointment in the transition period, and after July 1, 2018, their appointment ends December 3rd, but there's no election for them.

Stepasiuk: Intent is that the Town Council will appoint, so they could appoint according to the rules. Hanneke will work on language for this section.

10.7 (N): Hanneke: If you are extending the terms, all nine will still be in office at the time of transition, but we want them to expire. Let's re-write and make it clearer, remove "extending terms," if they expire, let them expire.

10.7(R): Hanneke: The School Committee is not facing an election until 9/2019. We provide for the stipends to start a year before. The people already serving will receive stipends. All agreed that's fine.

9.6: Churchill: If there is a review of the Charter and the Council says it wants to shrink the number of Councilors and the Council says no, what happens?

Stepasiuk : There is no recourse. It will be a political issue. Would have to go through Charter review process again.

Hanneke: We can't specify what will happen, because each type of change is different and involves a different process. Agreed to leave as is.

Churchill: He will send a draft of the Report prior to our next meeting. We will review non-substantive changes to the Charter as well as the minutes on Monday at 6:00 PM, then vote on the Charter and Report at 7:15 PM. The minority report needs to be received by him within 48 hours of the vote.

Adjourned: 9:54 PM

Respectfully submitted: Tom Fricke and Julia Rueschemeyer

Document:

Amherst Master Draft Charter - 9-14-2017 - Copy edited